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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/779,572	02/13/2004	Yong Tang	9896-000006	9302

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EXAMINER	
VU, VIET DUY	

ART UNIT	PAPER NUMBER
2154	

DATE MAILED: 10/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/779,572	TANG ET AL.	
	Examiner	Art Unit	
	Viet Vu	2154	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 May 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *5/14/04*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

Art Rejections:

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishikawa et al, U.S. pat. No. 6,658,457 in view of Daines et al, U.S. pat. No. 6,192,422.

Per claim 1, Nishikawa discloses a method for controlling Ethernet data flows on a SDH network comprising:

a) providing a buffer at a receiving node for buffering data transmitted from a source node (see col 5, lines 7-13),

b) monitoring the buffer level to detect and control data flow (see col 9, lines 31-35).

Nishikawa does not explicitly teach using high and low buffer threshold levels to monitor the data flow. The use of high/low buffer levels is well known in the art as disclosed by Daines (see Daines' col 4, lines 4-16).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize high/low buffer levels in Nishikawa because it would have enabled higher throughput Ethernet data flow.

Per claim 2, it would have been obvious to one skilled in the art that the buffer could have been implemented with any comparable types of memory including SDRAM.

Per claims 3-4, Nishikawa teaches allocating bandwidth including buffers for different type of applications (see Nishikawa's col 7, lines 14-26). It would have been further obvious to one skilled in the art to recognize that the size of the buffer would have been selected based upon many network factors including the transmission distances and delays.

4. Claims 5-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nishikawa and Daines and further in view of Lin et al, U.S. pat. No. 6,754,179.

Neither Nishikawa nor Daines teach using pause frames having time parameters to control data flow. Such use of timed

pause frames in Ethernet data flow is also well known in the art as disclosed by Lin (see Lin's col 2, lines 22-39).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Nishikawa and Daines with Lin's teachings because it would have further improved system throughput (see Lin's col 2, lines 56-64).

Conclusion:

5. The references cited by the examiner on PTO-892 but not relied upon are considered pertinent to applicant's disclosure.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Vu whose telephone number is 703-305-9597. The examiner can normally be reached on Monday through Thursday from 8:00am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee, can be reached on (703) 305-8498.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is 703-305-9600. The Group fax number is 703-872-9306.

VIET D. VU
PRIMARY EXAMINER

Art Unit 2154
10/12/04